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UNION PACIFIC RAILROAD COMPANY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

* * *

DAVID GRIFFIN,

Plaintiff,

vs.

UNION PACIFIC RAILROAD COMPANY; a
corporation; and, DOES ONE THROUGH
TWENTY, inclusively,

Defendants.

CASE NO. 2:22-cv-00612-MCE-JDP

Complaint filed: 4/7/22

Trial Date: not set

**ANSWER TO COMPLAINT; DEMAND
FOR JURY TRIAL**

Defendant, UNION PACIFIC RAILROAD COMPANY, in answer to the Complaint admits,
denies, and allege as follows:

1. Union Pacific admits the allegations of this paragraph.
2. Union Pacific admits the allegations of this paragraph.
3. Union Pacific admits the allegations of this paragraph.
4. Union Pacific admits the allegations of this paragraph.
5. Union Pacific lacks sufficient information to admit or deny the allegations of this paragraph, except that it denies that it was negligent.
6. Union Pacific lacks sufficient information to admit or deny the allegations of this paragraph.
7. Union Pacific admits the allegations of this paragraph.

1 8. This paragraph contains no allegations of fact, but instead asserts a duty which may or
2 may not be supported by the law.

3 9. Union Pacific denies the allegations of this paragraph.

4 10. Union Pacific denies the allegations of this paragraph.

5 **AFFIRMATIVE DEFENSES**

6 **FIRST AFFIRMATIVE DEFENSE**

7 Defendant would show Plaintiff's alleged injuries and damages were caused, in whole or in
8 part, by pre-existing conditions, or other contributory or concurrent conditions or factors, including
9 events occurring prior or subsequent to the occurrence made the basis of Plaintiff's claims against this
10 Defendant.

11 **SECOND AFFIRMATIVE DEFENSE**

12 Defendant alleges that any injuries sustained by Plaintiff were either wholly or in part
13 negligently caused by persons, firms, corporations or entities other than these answering Defendant
14 and that this negligence is either imputed to Plaintiff by reason of the relationship of said parties to
15 Plaintiff and/or this negligence comparatively reduces the percentage of negligence, if any, by this
16 answering Defendant.

17 **THIRD AFFIRMATIVE DEFENSE**

18 Defendant alleges that Plaintiff may himself have been negligent in matters alleged in the
19 Complaint and that such negligence on Plaintiff's part proximately contributed to the incident and to
20 the damages complained of, if any there were, and that should Plaintiff recover damages, this
21 answering Defendant are entitled to have the damages, reduced or eliminated to the extent that
22 Plaintiff's own negligence caused or contributed to his injuries.

23 **FOURTH AFFIRMATIVE DEFENSE**

24 The Complaint and each cause of action contained in it fails to state facts sufficient to
25 constitute a cause of action against this answering Defendant.

26 **FIFTH AFFIRMATIVE DEFENSE**

27 Plaintiff failed to mitigate his damages.

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1 **SIXTH AFFIRMATIVE DEFENSE**

2 Plaintiff's claims are preempted and/or precluded by other and/or superseding federal law.

3 **SEVENTH AFFIRMATIVE DEFENSE**

4 If, and to the extent that it may be entitled to further defenses of which they are presently
5 unaware, defendants reserve the right to amend this Answer to plead such additional and further
6 affirmative defenses as they become known.

7 **WHEREFORE**, UNION PACIFIC RAILROAD COMPANY prays judgment be entered that
8 plaintiff take nothing by reason of the Complaint, and that it be awarded costs of suit and for such
9 other and further relief as the court deems just and proper.

10 **Defendant, UNION PACIFIC RAILROAD COMPANY, hereby demands a jury trial.**

11 DATED: May 3, 2022

FLESHER SCHAFF & SCHROEDER, INC.

12 */s/ Jeremy J. Schroeder*

13 By

14 JEREMY J. SCHROEDER
Attorneys for Defendant,
UNION PACIFIC RAILROAD COMPANY